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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,860	03/31/2004	Paud Barry	P03464	5584
23702	7590	05/18/2007		
Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701			EXAMINER PARK, EDWARD	
			ART UNIT 2609	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,860

Applicant(s)

BARRY ET AL.

Examiner

Edward Park

Art Unit

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 8/9/04, 10/28/05.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claim 4 is objected to because of the following informalities: It seems to appear that the phrase “predetermined ~~acceptable~~ acceptable fill level” is a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sites et al (US 5,515,159).

Regarding **claim 1**, Sites teaches a method of inspecting the seal area between a blister package and a cover, said method comprising the steps of:

a) providing an image pick-up device (Sites: figure 1, numeral 36-1, 36-2);

Art Unit: 2609

b) presenting the blister package with cover adhered thereto to the field of view of said image pick-up device (Sites: figure 9, numeral 130);

c) imaging and determining the grey level of said seal area and comparing the imaged grey level to a predetermined grey level value (Sites: col. 7, lines 46-67; col. 8, lines 1-17); and

d) passing the blister package inspection if the imaged grey level is substantially the same as the predetermined grey level value or rejecting the blister package inspection if the imaged grey level is not substantially the same as the predetermined grey level value (Sites: figure 9, numeral 150).

Regarding **claim 2**, Sites teaches projecting a series of ROIs on the imaged seal area and wherein imaging of the grey level of the seal area occurs within each ROI (Sites: figure 5; figure 9, numeral 134).

Regarding **claim 3**, Sites teaches calculating the size of an imaged grey level that is not the same as the predetermined grey level value and passing the blister package inspection if the size is substantially the same or smaller than a predetermined acceptable size or rejecting the blister package inspection if the size is greater than the predetermined acceptable size (Sites: col. 2, lines 14-26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sites et al (US 5,515,159) in view of Schwartz et al (US 6,252,980 B1).

Regarding **claims 4-5**, Sites discloses all elements as mentioned above in claim 1. Sites does not teach:

the step of imaging the fill level of solution held in the blister package and comparing the imaged fill level with a predetermined acceptable fill level and passing the blister package if the imaged fill level is substantially the same as the predetermined accepted fill level or rejecting the blister package if the imaged fill level is less than the predetermined acceptable fill level and the blister package is oriented vertically during said inspection.

Schwartz teaches:

the step of imaging the fill level of solution held in the blister package and comparing the imaged fill level with a predetermined acceptable fill level (Schwartz: col. 3, lines 59-67; col. 4, lines 1-5) and passing the blister package if the imaged fill level is substantially the same as the predetermined accepted fill level or rejecting the blister package if the imaged fill level is less than the predetermined acceptable fill level (Schwartz: col. 4, lines 25-34) and the blister package is oriented vertically during said inspection (Schwartz: figure 2, numeral 209).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Sites reference to compare the fill level as suggested by Schwartz, to ensure that the proper amount of solution/liquid is within the blister packages before distribution to consumers.

Art Unit: 2609

Regarding **claims 6-7**, Sites teaches a method of inspecting the fill level of a solution in a sealed blister package, said method comprising the steps of providing an image pick-up device (Sites: figure 1, numeral 36-1, 36-2) and presenting the blister package to the field of view of said image pick-up device (Sites: figure 9, numeral 130).

Sites does not teach imaging and determining the fill level of the solution within the blister package and comparing the imaged fill level to a predetermined fill level value; passing the blister package inspection if the imaged fill level is substantially the same as the predetermined fill level value or rejecting the blister package inspection if the imaged fill level is not substantially the same as the predetermined fill level value and blister package is oriented vertically with respect to said image pick-up device.

Schwartz teaches:

imaging and determining the fill level of the solution within the blister package and comparing the imaged fill level to a predetermined fill level value (Schwartz: col. 3, lines 59-67; col. 4, lines 1-5); passing the blister package inspection if the imaged fill level is substantially the same as the predetermined fill level value or rejecting the blister package inspection if the imaged fill level is not substantially the same as the predetermined fill level value (Schwartz: col. 4, lines 25-34) and blister package is oriented vertically with respect to said image pick-up device (Schwartz: figure 2, numeral 209).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Sites reference to image and determine the fill level as suggested by Schwartz, to ensure that the proper amount of solution/liquid is within the blister packages before distribution to consumers.


Art Unit: 2609

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Park whose telephone number is (571) 270-1576. The examiner can normally be reached on M-F 09:00-17:00, (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner can be reached on (571) 272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


BRIAN WERNER
SUPERVISORY PATENT EXAMINER

Edward Park
Examiner
Art Unit 2609

EP 5/10/07